



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. 10/661,348	)	
	)	
First Names Inventor: Kim Tempest	)	Art Unit 3711
	)	
Filing Date: September 12, 2003	)	Examiner Kurt Furnstrom
	)	
Title: Gaming Apparatus and Method Having	)	Confirmation No. 6748
A Separate but Simultaneously Operating	)	
Bonus Indicator	)	
	)	
	)	

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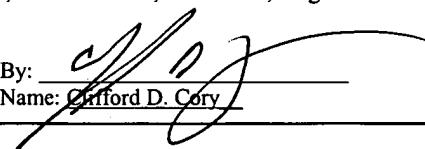
**APPELLANT'S BRIEF**

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**CERTIFICATE OF MAILING**

I hereby certify that this document and any documents indicated as being enclosed therein are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

on: November 3, 2008

By:   
Name: Clifford D. Cory

Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Having filed a Notice of Appeal from the rejection of Claims 1-9, 22-30, 32-41 and 49-51, Appellant submits her Appeal Brief for the above-captioned application pursuant to 37 C.F.R. § 41.37 as follows.

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## **I. REAL PARTY IN INTEREST**

The real party in interest in this application is Aristocrat Technologies, Inc.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no prior or pending appeals, interferences or judicial proceedings known to Appellant, the Appellant's legal representatives, or Assignee which may be related to, directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## **III. STATUS OF CLAIMS**

Claims 1-9, 22-30, 32-41 and 49-51 stand rejected and are the subject of the instant Appeal. Claims 10-21, 31 and 42-48 are cancelled.

## **IV. STATUS OF AMENDMENTS**

No amendments were filed subsequent to the final rejection.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The independent claims being appealed are described below:

### **Claim 1**

Claim 1 is directed to a gaming apparatus 100 (Tempest Application ("TA"), p. 4, line 9), comprising:

a primary game 101 (TA, p. 4, line 10) having a bonus feature (p. 2 of October 3, 2006 Response to Final Office Action and Request for Continuing Examination ("RFOA") at line 8 of the second replacement paragraph (¶ 2) therein)<sup>1</sup> ; and

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<sup>1</sup> There are four replacement paragraphs in the RFOA and they are hereinafter referred to as RFOA ¶ 1, ¶ 2, ¶ 3, and ¶ 4 respectively.

a bonus indicator **103** (TA, p. 4, lines 10-11) separate from (*id.*, line 10) and non-identical to said primary game (RFOA, ¶ 3, line 1), said bonus indicator to be enabled by credit wagered in said primary game (*id.*, ¶ 4 lines, 1-4), to operate substantially simultaneously with said primary game (*id.*, ¶ 4, line 6 ), to be of approximately the same duration as said primary game (TA, p. 5, lines 19-21), and to indicate, independent of any outcome of the primary game (*id.*, p. 6, lines 7-15), whether a player is entitled to said bonus feature (RFOA, ¶ 4, lines 8-10).

More generally, the present invention consists of a primary slot machine type game, a bonus indicator, and a bonus feature. The bonus indicator is separate from the primary game and plays differently. While the primary game operates, the bonus indicator, which is enabled by the credit wager on the primary game as opposed to a separate wager on the bonus indicator, also operates. But, unlike the primary game, the bonus indicator does not award credits when a certain result is obtained. RFOA, ¶ 2, lines 5-10. Instead, the bonus indicator indicates whether or not the player of the primary game is entitled to proceed to a bonus feature. *Id.*

#### **Claim 22**

Claim 22 is directed to a method for playing a gaming machine **100** (TA, p. 4, line 9) comprising:

playing a primary game **101** (*id.*, p. 4, line 10) having a bonus feature (RFOA, ¶ 2, line 8); and

automatically initiating a separate bonus indicator **103** (TA, p. 4, lines 10-11) when credit is wagered in said primary game (RFOA, ¶ 4, lines 2-4), said bonus indicator to operate substantially simultaneously with (*id.*, ¶ 2, line 5) and be non-identical to said primary game (TA, p. 8, lines 1-3), to be of approximately the same duration as said primary game (*id.*, p. 5,

lines 19-21), and to indicate, independent of any outcome of the primary game (*id.*, p. 6, lines 7-8), whether a player is entitled to said bonus feature (RFOA, ¶ 4, lines 8-10).

Claim 22 therefore describes a method for playing a gaming machine that involves playing a primary game and, by so doing, activating and initiating a separate bonus indicator that operates while the primary game operates. The bonus indicator is not a play-for-credit game, but instead indicates whether or not the player of the primary game is entitled to play the bonus feature.

### **Claim 32**

Claim 32 is directed to a method for playing a gaming machine **100** (TA, p. 4, line 9), comprising:

playing a primary game **101** (*id.*, p. 4, line 10); and automatically enabling and initiating a separate bonus indicator **103** when credit is wagered in said primary game (RFOA, ¶ 4, lines 2-4), said bonus indicator to operate simultaneously with (TA, p. 5, lines 19-21) and be non-identical to said primary game (RFOA, ¶ 3, lines 1-2), to be of approximately the same duration as said primary game (TA, p. 5, lines 19-21), and to indicate, independent of any outcome of the primary game (*id.*, p. 6, lines 7-15), whether a player is entitled to a bonus feature to said primary game (RFOA, ¶ 4, lines 8-10).

In other words, claim 32 describes a method of playing a gaming machine that involves playing a primary game on the machine; enabling and initiating play of a separate bonus indicator by credit in and play of the primary game; and indicating with the bonus indicator, independent of the outcome of the primary game, whether the player of the primary game is entitled to participate in a bonus feature to the primary game.

#### **Claim 49**

Claim 49 is directed to a gaming device comprising:

a computer (TA, p. 7, lines 22-23) configured to present a primary game outcome **101** (*id.*, Fig. 2; p. 7, line 5) and to substantially simultaneously present a bonus indicator to a player (*id.*, p. 5, lines 19-21), said bonus indicator being enabled by credit wagered in said primary game (RFOA, ¶ 4, lines 2-4) and designating, independent of any outcome of the primary game, (TA, p. 6, lines 7-15) at least one of a bonus condition or non-bonus condition (RFOA, ¶ 4, lines 8-10); and

means for initiating a bonus feature for said primary game where said bonus indicator designates a bonus condition (TA, p. 6, lines 20-24).

More generally, claim 49 describes a gaming device that includes a computer configured to present a primary game outcome and to, at the same time, present a bonus indicator. The bonus indicator is enabled by the credit wagered in the primary game but does not award credit for a “win” or a “loss” on the bonus indicator, instead, it designates a bonus condition or non-bonus condition independently of the outcome of the primary game. When a bonus condition is designated, the bonus feature of the primary game is enabled.

#### **Claim 51**

Claim 51 is directed to gaming apparatus, comprising:

a primary game **101** (TA, p. 4, line 10) having a bonus feature (RFOA, ¶ 2, line 8), said primary game configured to operate to produce at a display **102** (TA, Fig. 1; p. 4, line 11) winning and losing primary game outcomes (*id.*, p. 7, lines 16-18); and

a bonus indicator 103 (*id.*, p. 7, line 6) enabled by credit wagered in said primary game (RFOA, ¶ 4, lines 2-4) to operate substantially simultaneously with said primary game (*id.*, ¶ 4, line 6), said bonus indicator displayed separately from said primary game outcome display (TA, p. 5, lines 15-16) and randomly selected between enabling and not enabling said bonus feature independent of said primary game outcome (*id.*, p. 6, lines 7-15).

Claim 51 describes a gaming apparatus. The gaming apparatus includes a primary game with a bonus feature. The primary game operates to produce and display both winning and losing game outcomes and to award credits, or not, based on those outcomes. The gaming apparatus also includes a bonus indicator separate from and non-identical to the primary game. The bonus indicator is enabled by credit wagered in the primary game, but its outcome is independent of any primary game outcome and it does not award credits. The bonus indicator randomly selects between enabling and not enabling the bonus feature of the primary game.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

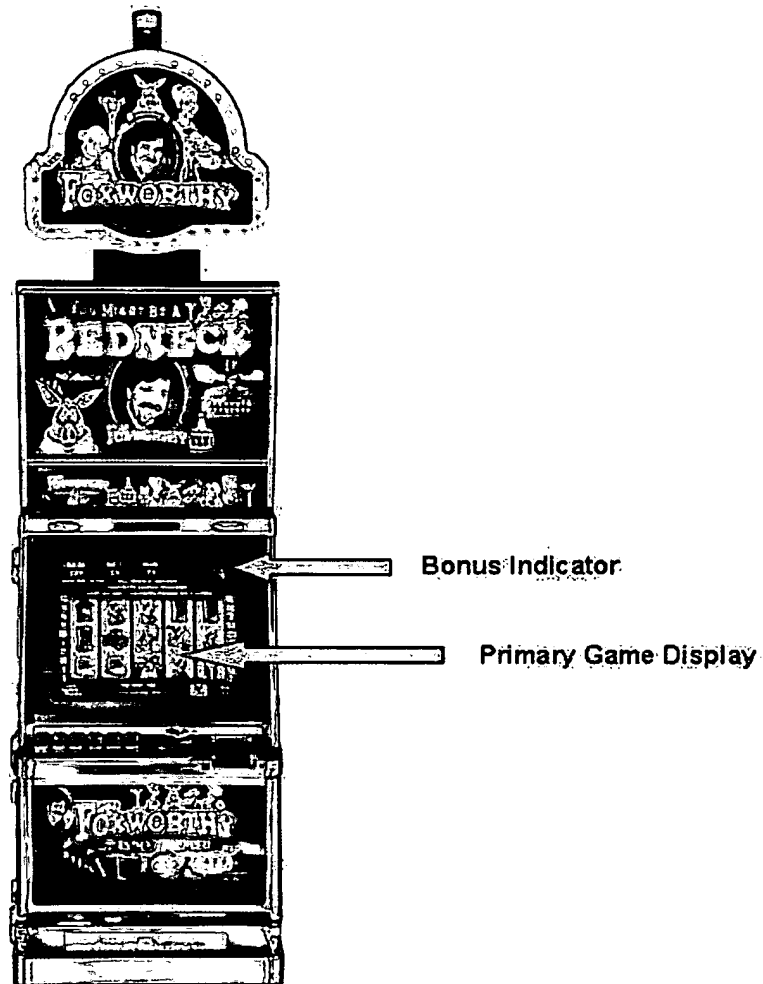
Whether the Examiner's rejection of claims 1-9, 22-30, 31-41 and 49-51 under 35 U.S.C. § 102(e) as being anticipated by Cannon is proper.

## **VII. ARGUMENT**

### **A. Claims 1-9, 22-30, 31-41 and 49-51 under 35 U.S.C. 102(e) are patentable over Cannon.**

#### **1. The bonus indicator of the present invention**

The present invention discloses a gaming machine, such as a spinning reels slot machine, that includes a separate bonus indicator. *See e.g.*, TA, p. 6, lines 7-15; Figure 1. A gaming machine manufactured and sold by Aristocrat that incorporates the invention is depicted below:



The bonus indicator plays differently from and has an outcome independent of the primary game.

*Id.* The bonus indicator is, however, enabled by the wager in the primary game and operates substantially simultaneously with the primary game. RFOA, ¶ 2, lines 1-4. The purpose of the bonus indicator is solely to indicate whether the player is entitled to participate in the bonus feature associated with the primary game. RFOA, ¶ 4, lines 8-10. No separate award of credit can be won based only on the outcome of the bonus indicator. RFOA, ¶ 2, lines 5-9. Instead, the player may or may not be awarded credits based only upon the outcome of the primary game



and/or bonus feature, and the bonus feature only if the bonus feature has been enabled by selection and display of a triggering symbol at the bonus indicator. *Id.* By striking the original language in the Specification that the bonus indicator could indicate that the player “will receive some other secondary award or prize . . . which may . . . consist of credits, money, or casino promotional items” (*id.*) the Applicant has defined her bonus indicator as a credit-neutral gaming event, one that does not award credits, money or prizes based upon its outcome.

## **2. Cannon’s multiple game gaming machine**

Cannon discloses a gaming device configured for mutually concurrent play of multiple independently operable games of chance on a single display screen. Cannon, col. 4, lines 28-34. The games of chance may be the same or different, but the idea is that the player selects, wagers on, and plays separate multiple games of chance that are displayed at the same time on a single gaming display. *Id.*, col. 8, lines 30-33. If a winning result is achieved in one of the games, the player is awarded credits. *Id.*, col. 23, line 59 to col. 24, line 4. Cannon also discloses awarding one or more “bonus” games that may be triggered when a particular outcome or level of winning on one or more of the multiple games is reached. *Id.*, col. 24, lines 17-25. These bonus or complimentary games are essentially free plays of one or more of the multiple games of Cannon. *Id.* Cannon also contemplates awarding a complimentary game or games when a predetermined high level of wagering, e.g. a set number of games played or dollars wagered per time period, is achieved. *Id.*, col. 26, lines 21-28.

The Examiner’s position is that one of the multiple games of Cannon, in addition to being a primary game, may also be interpreted to be the bonus indicator and/or the bonus feature of the

present invention as well, and therefore Cannon is anticipatory. On this basis, the claims of the present invention stand rejected.

### **3. Standard for anticipation**

Anticipation requires that all of the elements of an invention as stated in a patent claim are identically set forth in a single prior art reference. *Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997); *Rowe v. Dror*, 112 F.3d 473, 478 (Fed. Cir. 1997). “Absence from the reference of any claimed element negates anticipation.” *Dror*, 112 F.3d at 478, quoting *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986). While claims are to be interpreted broadly during examination, “this does not relieve the PTO of its essential task of examining the entire patent disclosure to discern the meaning of claim words and phrases.” *Id.* at 480. When the present patent disclosure is examined in its entirety, it is seen that the bonus indicator is novel and distinct from the games of Cannon.

Moreover, in order to find anticipation, “[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of invention.” *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991). But again, from the standpoint of one skilled in the art of gaming, indeed even from the standpoint of one simply familiar with the play of slot machines and similar gaming devices, the claimed invention and Cannon are quite different.

### **4. The bonus indicator is not played for credits and is therefore patentably distinct from the games in Cannon.**

In Cannon, a player wagers on and plays several games simultaneously (or sequentially in some cases) on a single display screen. Each game is an independent gaming event. And each game has an independent possibility of a credit win or loss. The player must make a separate

wager to play each primary game (unless it is a bonus or complementary game the player has been awarded) and he or she may receive credits based upon the individual game result and the amount wagered on that game (in a bonus game, credits are awarded based upon the individual game result and the credits wagered in the bonus game or one of the other games being played (Cannon, col. 26, lines 40-63)). The game result may, in addition to awarding credits, also indicate to the player that a bonus game will be initiated, but this is not the game's only purpose or even its primary purpose. Its primary purpose is to function as a standard slot machine type game does, and as each of the multiple games of Cannon does; to play to a randomly selected result and based on that result provide for an award or loss of credit.

On the other hand, the bonus indicator of the present invention is not a separate credit generating gaming event and does not require a separate wager. The player will not receive credits or other awards based upon the outcome of the bonus indicator. The bonus indicator is simply an intermediate link – a credit-neutral stepping stone – between the base game and a bonus feature. Neither Cannon, nor any other prior art of which Appellant is aware utilizes a similar intermediate, credit-neutral event to lead to a bonus feature.

The standard for anticipation is identity of elements. Where identity is not found there can not be anticipation.

The requirement for identity is illustrated by *Trintec. Indus., Inc. v. Top-USA Corp.*, 295 F.3d 1292 ( Fed. Cir. 2002). The patent in *Trintec* covered a cost-effective method of producing multicolor faces for watches, clocks and other instruments. 295 F.3d at 1294. One element to a claim at issue was a color photocopier. The District Court invalidated the patent on summary judgment after finding that all elements of the patent claim other than the color photocopier were

disclosed in a prior art catalogue, and an inherently disclosed color printer met the color photocopier claim element. *Id.* at 1295-96. The Federal Circuit reversed, finding that a color photocopier is not a color printer and therefore can not be anticipated by one. *Id.* at 1296.

Neither is the bonus indicator of the present invention a standard slot machine type game as is found in Cannon. It does not award credits based on its result. Its only function is to provide a game of chance that will indicate to the player whether he or she may have the opportunity to win credits later, in the bonus feature of the gaming machine. This may be a negative limitation, but negative limitations are not prohibited, even at the point of novelty. *See* CHISUM ON PATENTS 3:8.06[3] (MATHEW BENDER & CO. 2002) (“[I]t is clear today that negative limitations are not impermissible *per se* and may be allowed if indefiniteness, undue breadth and obviousness are avoided.”)

*In re Robert Duva* illustrates why the lack of a play-for-credit aspect of the bonus indicator of the present invention is patentably distinct from the standard slot machine type games of Cannon. 387 F.2d 402 (CCPA 1967). *In re Robert Duva*, which was decided under the less stringent obviousness standard, involved a patent claim to a composition and process for chemically depositing or plating gold to another metal in an aqueous solution containing soluble gold cyanide and a palladous salt, in the absence of sufficient cyanide ions to prevent the plating. *Id.* at 404. The claims stood rejected as obvious over a prior art patent that disclosed a method for electroplating a gold palladium alloy in a solution containing gold cyanide and a palladous salt, among other things, but did not limit the amount of cyanide ions in the solution to an amount that would allow chemical depositing to take place. *Id.* at 405. The examiner had found that the claimed proportions of gold cyanide and palladous salt in the rejected claims overlapped

those disclosed in the prior art, and there was no “‘patentable merit’ in omitting one or more of the alloying compounds as well as their functions,” and the Board of Patent Appeals and Interferences had affirmed. *Id.* The District Court reversed.

According to the District Court, the claimed aqueous solution was not made obvious (and *a fortiori* not anticipated) by the disclosure of a solution containing the same elements. *Id.* at 408. The fact that the patent claimed a limited amount of cyanide ions and that limiting that amount made the chemical plating (as opposed to electroplating) possible was patentably distinct. *Id.* Here, Cannon discloses a game played for credits that may also indicate to a player that he or she is entitled to a bonus game. This concept is well known and is not what Cannon is about. Cannon is about multiple games simultaneously displayed on a single screen. The present invention, on the other hand, is about a new and different way to show a player when (or if) they are entitled to play a bonus feature via a separate indicator that is not played for credits. Eliminating the for-credit aspect of a game so that it only functions as a bonus indicator is no less significant than limiting the cyanide ions in an aqueous gold cyanide solution in *In re Robert Dura*.

The MPEP states that “technical rejections (e.g. negative limitations, indefiniteness) should not be made where the examiner, recognizing the limitations of the English language, is not aware of an improved mode of definition.” U.S. Patent and Trademark Office, *Manual of Patent Examining Procedure* § 707.07(g) (8th ed. 2008). Appellant has defined her bonus indicator as something other than the standard slot machine games of Cannon that may also indicate that a player may play the games’ bonus game. Each claim speaks of a primary game and a bonus indicator, as well as a bonus feature. The primary game is a standard slot machine

type game as disclosed in Cannon. The bonus indicator is not because it does not pay credits for a “win.” The bonus indicator is therefore patentably distinct from the games of Cannon.

**5. The present invention operates differently from Cannon because the bonus indicator is enabled by credit wagered in the primary game.**

The operational difference between the bonus indicator and Cannon’s games is readily seen from the player’s standpoint. In Cannon, a player enables play of one or more of the primary games by wagering credit(s) for each game. Cannon, col. 21, line 65 to col. 22, line 18. The player may wager different amounts on different games, but he or she generally must place a wager on a game to enable play (with one exception, addressed below). After assigning a wager(s) to the game(s) the player wishes to play, the player initiates play via a play button or touchscreen. *Id.*, col. 22, lines 35-38. The player then watches each game played to see if a winning result is obtained. If a winning result is obtained on any game, the player is awarded credits based upon that winning result and the amount wagered in that game. *Id.*, col. 23, line 59 to col. 24, line 4.

In the present invention, on the other hand, the player makes one wager on a slot machine type game and that wager enables play not only of the slot machine type primary game, but also of a separately operating bonus indicator. To the player, they are essentially getting a free spin of the bonus indicator with every wager made on the slot machine type game.<sup>2</sup> Each independent claim of the present invention includes this limitation, which is not found in Cannon. Independent claims 1, 49 and 51 state that the bonus indicator is “enabled by credit

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<sup>2</sup> In some embodiments of the present invention the player must make the maximum wager to enable the bonus indicator.

wagered in said primary game.” TA, claims 1, 49 and 51. Similarly, independent claims 22 and 32 state that the separate bonus indicator is enabled and initiated automatically “when credit is wagered in said primary game.” *Id.*, claims 22 and 32.

The independent claims make clear that the separate, independently operating bonus indicator of the present invention is enabled by credit played in the primary game. This limitation is not found in Cannon, where each game is enabled by credit played in that game. The free-game bonus feature of Cannon is addressed below.

6. **In finding that the free-game bonus feature of Cannon may be initiated by credit wagered in the primary game and thereby become a bonus indicator initiated by that wager, the Examiner ignores the all elements rule and allows a single game of Cannon to anticipate two or more separate elements in Tempest.**

Cannon discloses two ways to enable a complimentary bonus game: first, upon achieving “a particular outcome or level of winning” in the initial game played (Cannon, col. 24, lines 15-25); and second, “[a]t some predetermined high level of [cumulative] wagering, which may consider the number of games played per time and/or number of dollars waged per time period” (*id.*, col. 26, lines 21-24). After being enabled, the play of Cannon’s free bonus game may be initiated by play of one or more of the other games. *Id.*, col. 26, lines 35-38. The Examiner’s position is that when Cannon awards its complementary game bonus feature, the complimentary game bonus feature is then also the bonus indicator, and is therefore enabled by credit wagered in the primary game. (““The complimentary game may be caused to play automatically in response to a player’s initiation of play in one or more other games of chance in which wagers have been placed.”” October 1, 2007 Office Action at 4, quoting Cannon, col. 26, lines 35-38.

“[T]his excerpt discloses a bonus indicator which is enabled by credit wagered in a primary game.” *Id.* at 4.)

But under this construction, the complimentary game/bonus feature and bonus indicator are one and the same. Cannon does not contain both the element of a separate bonus indicator and also a bonus feature, as the present invention does. If the complimentary game of Cannon is also its bonus indicator, it does not include all elements of the present invention, specifically the separate elements of the bonus feature, bonus indicator, and primary game. *See Gechter*, 116 F.3d at 1457.

The Examiner is allowing a single game of Cannon to anticipate three separate elements of Tempest. The complimentary game the Examiner references is simply a primary game(s), played in the same primary game window(s) as all the other games of Cannon, that requires no additional credit to play. Cannon, Col. 26, lines 24-29 (“a player may also be provided with one or more ‘complimentary games’ in one or more individual gaming windows 88 which provide a player a chance to win at no additional cost for a predetermined period of time, or for a predetermined number of spins.”) According to the Examiner, this primary game becomes a bonus feature when conditions are met that allow it to play without additional credit being wagered. October 1, 2007 Office Action at 2 (“Any of the plurality of games played may be designated as a ‘primary’ or ‘bonus’ game ....”). At the same time, according to the Examiner, the primary game/bonus feature is also the bonus indicator, because if it hits a predetermined result another bonus may be won. *Id.* at 3-4 (“To the extent that the claim recites a ‘bonus’ indicator in the sense of not having to pay additional credits, the complementary game discussed at column 26, lines 21-63 of Cannon reads on the newly added claim limitation.”). The games of



Cannon, however, even in combination, do not disclose the three separate elements of Tempest, a primary game, bonus indicator and bonus feature. Cannon therefore does not anticipate any of the independent claims of Tempest or *a fortiori*, any dependent claims.

### VIII. CONCLUSION

When Cannon and the present invention are each viewed in their entirety, it is seen that the multiple games of Cannon, all of which are played for credit, some of which may, based on their outcome, entitle a player to play a complimentary bonus game, and some of which may be played as a complementary bonus game, do not anticipate the separate primary game, credit-neutral bonus indicator, and bonus feature of the present invention. It is urged that the rejection on the Cannon reference should be reversed.

Respectfully submitted,



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## **IX. CLAIM APPENDIX**

Claim 1. (Previously presented): A gaming apparatus, comprising:

a primary game having a bonus feature; and

a bonus indicator separate from and non-identical to said primary game, said bonus indicator to be enabled by credit wagered in said primary game, to operate substantially simultaneously with said primary game, to be of approximately the same duration as said primary game, and to indicate, independent of any outcome of the primary game, whether a player is entitled to said bonus feature.

Claim 2. (Original): The apparatus of claim 1, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols and wherein said primary game is won when a predetermined combination of symbols is achieved.

Claim 3. (Original): The apparatus of claim 1, wherein said bonus indicator is a roulette type wheel.

Claim 4. (Original): The apparatus of claim 1, wherein said bonus indicator is one or more reels.

Claim 5. (Original): The apparatus of claim 1, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is a roulette type wheel.

Claim 6. (Original): The apparatus of claim 1, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is

won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is one or more reels.

Claim 7. (Original): The apparatus of claim 1, wherein said apparatus is connected to an overall casino management system which monitors and controls said apparatus.

Claim 8. (Original): The apparatus of claim 1, wherein said apparatus is linked to one or more other gaming apparatuses to create a bank of hyperlinked gaming apparatuses.

Claim 9. (Original): The apparatus of claim 1, wherein said bonus indicator is used to show participation in a tournament played across a linked group of gaming apparatuses.

Claims 10-21. (Canceled):

Claim 22. (Previously presented): A method for playing a gaming machine , comprising:  
playing a primary game having a bonus feature; and  
automatically initiating a separate bonus indicator when credit is wagered in said primary game, said bonus indicator to operate substantially simultaneously with and be non-identical to said primary game, to be of approximately the same duration as said primary game, and to indicate, independent of any outcome of the primary game, whether a player is entitled to said bonus feature.

Claim 23. (Original): The method of claim 22, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols and wherein said primary game is won when a predetermined combination of symbols is achieved.

Claim 24. (Original): The method of claim 22, wherein said bonus indicator is a roulette type wheel.

Claim 25. (Original): The method of claim 22, wherein said bonus indicator is one or more reels.

Claim 26. (Original): The method of claim 22, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is a roulette type wheel.

Claim 27. (Original): The method of claim 22, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is one or more reels.

Claim 28. (Original): The method of claim 22, wherein said gaming machine is connected to an overall casino management system which monitors and controls said gaming machine.

Claim 29. (Original): The method of claim 22, wherein said gaming machine is linked to one or more other gaming machines to create a bank of hyperlinked gaming machines.

Claim 30. (Original): The method of claim 22, wherein said bonus indicator is used to show participation in a tournament played across a linked group of gaming machines.

Claim 31. (Canceled):

Claim 32. (Previously presented): A method for playing a gaming machine , comprising: playing a primary game; and automatically enabling and initiating a separate bonus indicator when credit is wagered in said primary game, said bonus indicator to operate simultaneously with and be non-identical to said primary game, to be of approximately the same

duration as said primary game, and to indicate, independent of any outcome of the primary game, whether a player is entitled to a bonus feature to said primary game.

Claim 33. (Previously presented): The method of claim 32, wherein said bonus feature provides the player with the opportunity to win a prize, promotional item or message from a casino.

Claim 34. (Original): The method of claim 32, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols and wherein said primary game is won when a predetermined combination of symbols is achieved.

Claim 35. (Original): The method of claim 32, wherein said bonus indicator is a roulette type wheel.

Claim 36. (Original): The method of claim 32, wherein said bonus indicator is one or more reels.

Claim 37. (Original): The method of claim 32, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is a roulette type wheel.

Claim 38. (Original): The method of claim 32, wherein said primary game contains a plurality of reels, each of which is capable of displaying symbols, wherein said primary game is won when a predetermined combination of symbols is achieved, and wherein said bonus indicator is one or more reels.

Claim 39. (Original): The method of claim 32, wherein said gaming machine is connected to an overall casino management system which monitors and controls said gaming machine.

Claim 40. (Original): The method of claim 32, wherein said gaming machine is linked to one or more other gaming machines to create a bank of hyperlinked gaming machines.

Claim 41. (Original): The method of claim 32, wherein said bonus indicator is used to show participation in a tournament played across a linked group of gaming machines.

Claim 42-48. (Canceled):

Claim 49. (Previously Presented): A gaming device comprising:

a computer configured to present a primary game outcome and to substantially simultaneously present a bonus indicator to a player, said bonus indicator being enabled by credit wagered in said primary game and designating, independent of any outcome of the primary game, at least one of a bonus condition or non-bonus condition; and

means for initiating a bonus feature for said primary game where said bonus indicator designates a bonus condition.

Claim 50. (Previously presented): The gaming device of claim 49 comprising said computer configured to display a second game to the player for issuing a bonus to the player where said bonus indicator designates a bonus condition.

Claim 51 (Previously presented): A gaming apparatus, comprising:

a primary game having a bonus feature, said primary game configured to operate to produce at a display winning and losing primary game outcomes; and

a bonus indicator enabled by credit wagered in said primary game to operate substantially simultaneously with said primary game, said bonus indicator displayed separately from said primary game outcome display and randomly selected between enabling and not enabling said bonus feature independent of said primary game outcome.

None

**X. EVIDENCE APPENDIX**



**XI. RELATED PROCEEDING APPENDIX**

None

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